

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

SEP 11 2014

D. MARK JONES, CLERK
BY DEPUTY CLERK

THOM D. ROBERTS (#2773)

Assistant Attorney General

SEAN REYES (#7969)

Attorney General

P.O. Box 140857

160 East 300 South, 5th Floor

Salt Lake City UT 84114-0857

Phone: (801) 366-0353

Fax: (801) 366-0352

thomroberts@utah.gov

Attorney For State Defendants

Governor Gary Herbert and Lieutenant Governor Spencer Cox

IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, FOR THE DISTRICT OF UTAH

BRECK ENGLAND, et. al,

Plaintiffs,

vs.

Joel Hatch, et. al,

Respondents.

**ORDER GRANTING PRELIMINARY
INJUNCTION**

Civil No. 01:14-cv-00079

Judge Clark Waddoups

The above matter came on regularly for hearing on Plaintiffs' Motion for Preliminary Injunction on September 5, 2014, at 1:30 p.m., before the Honorable Judge Clark Waddoups, District Court Judge presiding. The Court, having reviewed the pleadings and other filings herein and having heard the arguments and presentation of counsel, made and entered its Memorandum Decision and Order, Doc. 32. Based thereon, the Court determines that there is the likelihood that: (1) should the matter go to trial, the Plaintiffs England and Rusk will succeed on the merits of their election law claim that to the extent they limit the Plaintiffs' ability to be

placed on the ballot as a candidate for the Utah State Board of Education, Utah Code §§ 20A-14-104 (5) (b) through (6) (k) and 105, are unconstitutional; (2) the Plaintiffs England and Rusk will suffer irreparable harm in the absence of preliminary injunctive relief; (3) the balance of equities tips in Plaintiffs England's and Rusk's favor; and (4) the injunction is in the public interest.

Therefore a Preliminary Injunction should issue. Based thereon, it is hereby

ORDERED, ADJUDGED AND DECREED that Defendant Spencer Cox, in his official capacity as Lieutenant Governor of the State of Utah, shall be and is hereby enjoined from enforcing the provisions of Utah Code §§ 20A-14-104 (5) (b) through (6) (k) and 105 only to the extent that those provisions limit the ability or right of candidates to be placed on a ballot for election to the Utah State Board of Education in the 2014 Utah general election; it is further

[STIPULATED BY THE STATE AND PLAINTIFFS; SALT LAKE COUNTY AND DAVIS COUNTY TAKE NO POSITION] ORDERED, ADJUDGED AND DECREED that Defendant Spencer Cox, acting in his official capacity, shall issue an amended certification, on or before September 12, 2014, which shall include the names of Plaintiffs England and Rusk to go on the ballots in their respective districts, in the order provided by Utah Code § 20A-6-305 and the 2014 Master Ballot Position List, for election to the Utah State Board of Education in the 2014 Utah general election,; it is further

ORDERED, ADJUDGED AND DECREED that Defendant Sherrie Swensen, in her official capacity and consistent with the Lieutenant Governor's amended certification, shall place all duly certified candidates on the District 5 ballot for election to the Utah State Board of

Education in the 2014 Utah general election; it is further

Order Granting Preliminary Injunction

Page 2

ORDERED, ADJUDGED AND DECREED that Defendant Sherrie Swensen and Defendant Steve Rawlings, in their official capacities and consistent with the Lieutenant Governor's amended certification, shall place all duly certified candidates on the respective District 6 ballots for election to the Utah State Board of Education in the 2014 Utah general election; it is further

ORDERED, ADJUDGED AND DECREED that this Order shall continue until further modified by the Court or until final judgment is entered in this case, whichever occurs sooner; and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiffs are not required to provide security as it is unlikely there will be any recoverable costs and damages sustained by any of the parties if they are found to have been wrongfully enjoined or restrained; and it is further

ORDERED, ADJUDGED AND DECREED that all proceedings in this case, including discovery, are stayed to allow the parties an opportunity to explore stipulating to the resolution of all claims contained in Plaintiffs' complaint. Either party may lift the stay by providing 30 days notice to the other side and seeking a corresponding order from this court.

DATED this 11th day of September, 2014.


Judge Clark Waddoups

APPROVED AS TO FORM:

ALAN L. SMITH

Attorney for Plaintiffs

/s/Thom D. Roberts

*(Signed by Filing Attorney with permission
of Alan L. Smith)*

DARCY M. GODDARD

Attorney for Sherrie Swensen

/s/Thom D. Roberts

*(Signed by Filing Attorney with permission
of Darcy M. Goddard)*

DAVID WOLF

*Attorney for Defendant Committee and
Committee Members*

/s/Thom D. Roberts

*(Signed by Filing Attorney with permission
of David Wolf)*

TROY S. RAWLINGS

Attorney for Steve Rawlings

/s/Thom D. Roberts

*(Signed by Filing Attorney with Permission
of Troy S. Rawlings)*